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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,290	02/22/2002	Brett W. Bacho	3914-105 US	9820

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MATHEWS, COLLINS, SHEPHERD & MCKAY, P.A.  
100 THANET CIRCLE, SUITE 306  
PRINCETON, NJ 08540-3674

EXAMINER
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JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/081,290

Applicant(s)

BACHO ET AL.

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

DETAILED ACTION

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 and 10-19 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,390,576 to Walburn. Walburn discloses a mounting apparatus for a drawer enclosure (10) comprising an adjustment plate (24) of a substantially planar L-shaped body having a major leg (vertical) and minor (horizontal) leg with at least one opening formed therein mounted on a drawer boot or bracket (34) that secures to a drawer slide assembly (17).

As to claims 2, 3, 7, 11, 12, 15 and 16, as seen in Fig. 3, the adjustment plate includes a plurality of openings (28, 29) and or inlets (disposed at the minor leg).

As to claims 4-6, 13 and 17-19, the openings (28) in the major leg includes a locking means or are threaded to prevent a fastener from coming loose. Further, protrusions or lock nuts (31) are provided for openings (29) with a threaded or roughened inner surface to secure to a fastener.

Referring to claims 10 and 14, the openings (28) of the adjustment plate are generally aligned with slots (44, 46) of the bracket or boot as the boot is secured to a panel (13) of the draw slide assembly.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walburn.

Although the adjustment plate of Walburn as seen in Fig. 3 has varied dimensioned major and minor legs or bodies, Walburn does not disclose the specific lengths and widths of the legs as claimed. It would have been obvious to one having ordinary skill in the art at the time of applicant's invention as an obvious matter of design choice to modify the plate with specific lengths and widths within the range as claimed, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Furthermore, applicant does not state the specific dimensions solves a relevant problem or is for a particular purpose, and the mounting apparatus of Walburn operates equally as well.

### **Response to Applicant's Arguments**

Applicant's arguments filed in Amendment A on November 24, 2003 have been fully considered but they are not persuasive. In particular, applicant's arguments presented on page 6 of the above amendment asserts that the prior art relied upon (Walburn) does not encompass the structural functionality of applicant's invention. Specifically, applicant states that the amendment to applicant's claims recites "a stress relieving plate mounted on a drawer track boot" which is

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contrast to the stand (24) of Walburn, which according to applicant, is placed on a side rail to prop up the angled bracket (34). Here, the Examiner respectfully disagrees with applicant and cannot find a passage within the disclosure of Walburn where the function of the stand or plate operates as described by applicant.

In any event, it is the claims that define whether a claimed invention is anticipated by the prior art. More particularly, applicant's amendment to independent claims 1 and 9 now positively recite a direct connection "mounted on" between two structural elements, namely a stress relieving plate mounted on a drawer track boot. The Examiner believes the broad interpretation in light of applicant's specification given to Walburn meets the limitations of the claims. The stand (stress relieving plate) is indeed mounted to the angled bracket (drawer track boot) as disclosed by Walburn in column 10, lines 1-33. It is more evident in Figs. 4A-4H where Walburn discloses various mounting arrangements between the components of the drawer slide assembly which is illustrated in Figs. 4A, 4C, 4E and 4G in particular of a direct mounting or connection between the angled bracket and stand as claimed. Therefore, the Examiner believes Walburn meets the structural and functional limitations as set forth in the claims and the claims remain rejected over Walburn.

### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson  
Patent Examiner  
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